

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:** **Chapter 11**  
**PURDUE PHARMA L.P., et al.,** **Case No. 19-23649 (RDD)**  
**Debtors.** **(Jointly Administered)**

**MEDIATORS' REPORT**

Pursuant to Paragraph 17 of the Court's March 3, 2020 Order Appointing Mediators, the Mediators Professor Ken Feinberg and Judge Layn Phillips respectfully submit this Mediators' Report in connection with the mediation of the *In re Purdue Pharma L.P. et al.* bankruptcy proceeding.

**A. Overview Statement Regarding the Conduct of the Mediation**

Upon appointment of the co-mediators by the Court's order dated March 3, 2020, the Mediators immediately scheduled meetings with the various constituencies. The Mediators asked for and received mediation statements in early March, and held the first meeting on March 11, 2020. Since then, the Mediators have conducted over 150 video conference and telephonic sessions with mediation parties and observers. The Mediators heard numerous presentations, received multiple proposals, met with experts, and presided over numerical and term sheet negotiations.

Phase One of the mediation achieved substantial completion by September 23, 2020. The progress made and resolutions achieved during Phase One were summarized in further detail in the Mediators' Report filed by the Mediators on that date.

On September 30, 2020, the Court entered the Order Expanding the Scope of Mediation, authorizing the Mediators to continue mediating with the parties to resolve open issues from Phase One. Paragraph 3 of the September 30, 2020 order also authorized the Mediators "to mediate any and all potential claims or causes of action that may be asserted by the estate or any of the Non-Federal Public Claimants against the Covered Parties (as defined in the *Amended and Restated Case Stipulation Among the Debtors, the Official Committee of Unsecured Creditors and Certain Related Parties* [Dkt. No. 518]) or that may otherwise become the subject of releases potentially granted to the Covered Parties in these chapter 11 cases (the 'Shareholder Claims')." The September 30, 2020 Order narrowed the number of mediating parties for the Shareholder Claims aspect of the mediation.

The Mediators immediately began taking meetings with the parties to Phase Two. The Mediators received presentations from certain of these parties during which they outlined their positions. Numerical negotiations began shortly thereafter. Despite great efforts from the mediation parties and the Mediators over the course of these months, the Mediators had not achieved a mutually agreed resolution among all constituencies at the end of the Phase Two mediation on January 31, 2021.

## **B. Mediation Participants**

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**C. Statement Regarding Good Faith**

It is the Mediators' view that all of the mediation participants acted in good faith throughout the mediation process.

**D. Statement Regarding the Extent to Which the Mediation Was Successful**

Pursuant to Section (d) of the Court's Order of March 3, 2020, the Mediators report that the mediation should be deemed a success for the following reasons:

(i) The primary purpose of the mediation – reaching a consensual agreement as to the allocation percentages between and among the public and private creditor groups engaged in the mediation – was successfully achieved. This critically important issue – how to allocate the available assets of the Debtor among public and private creditors – was resolved successfully through the mediation process.

(ii) Allocation *inter se* among the public and private creditor groups was also largely achieved among the overwhelming number of mediation participants. Although certain public and private mediation participants – the public school districts and the NAS children physical injury group – were unable to achieve agreement on allocation *inter se*, all other mediation participants reached agreement *inter se* as to their respective allocations as a result of the mediation process.

(iii) Although a limited number of non-monetary conditions remain as yet unresolved among the mediation participants, *e.g.* how agreed upon allocated amounts involving third party insurers may be used for public abatement purposes, these pending disagreements in no way undercut the overall success of the mediation process.



(iv) Finally, although not technically a financial allocation issue among the public and private creditors engaged in the mediation process, the issue of a “Sackler contribution” to the overall Debtor Estate is reflected in the Sackler Settlement Agreement Term Sheet filed with the Court on March 15, 2021. This Term Sheet follows in the wake of a recommendation made earlier by the two Mediators as part of Phase Two of the mediation process.

For all of these reasons referenced above, the two Mediators conclude that the mediation was successful.

Dated: March 22, 2021

/s/ Ken Feinberg

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Professor Ken Feinberg

/s/ Layn R. Phillips

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Layn R. Phillips  
Former U.S. District Judge